

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR 20-MJ-394

STACEY YELLOWHORSE, et all.,

Defendant.

**STACEY YELLOWHORSE'S UNOPPOSED MOTION FOR ORDER TO ALLOW
POSSESSION & USE OF LAPTOP COMPUTER**

Defendant Stacey Yellowhorse, through her attorney, Carey C. Bhalla, moves this Court for an order to compel the McKinley County Detention Center in which Ms. Yellowhorse is housed to permit her to possess and use a personal laptop computer for the purposes of reviewing discovery and preparing for trial during the pendency of this case.

The government, by and through Assistant United States Attorney Allison Jaros, has no objection to the relief requested herein. Timothy Chischilly, through his attorney of record, joins in this Motion. In support of this motion Ms. Yellowhorse submits:

Background and Need for Computer

A grand jury returned has not yet returned an indictment in this case, but Ms. Yellowhorse anticipates an indictment soon concerning her alleged involvement in the murder of P.V. Counsel has agreed to two grand jury continuances in this matter to facilitate ongoing discovery production and plea negotiations. On July 31, 2020, AUSA Jaros emailed undersigned concerning production of voluminous cell phone records in the form of Cellebrite reports. Ms. Jaros indicted that such records were extensive and would be difficult to redact and requested a protective order concerning

such records. Undersigned has worked on several cases involving cellebrite records¹, and based on this experience, it is almost impossible to redact them digitally or to even produce them to defendants in paper format. Typically, in cases where cell phone records and cellebrite reports are tendered, undersigned has moved the court to allow for production of such discovery to the clients on a secured computer device. The computer is password protected, WIFI disabled, inspected by the Marshalls prior to presentation to the client, and regularly updated and inspected by the defense team.

Ms. Yellowhorse has a right to receive and review discovery and participate in preparing her defense. U.S. Const. Amends. V, VI. It is impractical and costly to attempt to review thousands of pages of discovery in paper format, especially now given the COVID pandemic with most facilities prohibiting in person meetings with defendants.

Given that the discovery materials are already in digital form, providing Ms. Yellowhorse with a computer to store and review the existing and any new discovery which may be produced is the only way for her to exercise her due process rights of participating in her defense and also greatly reduces the security risks posed to Ms. Yellowhorse and others by requiring her to physically store and review page-by-page thousands of pieces of paper.

Precedent for Ordering Electronic Discovery Review in the District of New Mexico

Other criminal defendants being prosecuted in the District of New Mexico have been provided digital computing devices in order to be able to review discovery and assist in their

¹ *U.S. v. Baker*, 17-2556; *U.S. v. Leveille*, 18-2945; *United States v. Angel DeLeon et al.*, CR 15-4268 JB

defense. *See United States v. Angel DeLeon et al.*, CR 15-4268 JB, *United States v. Anthony Baca et al.*, CR 16-1613 JB and *United States v. Cornelius Galloway et al.*, CR 17-1235 WJ.

Proposed Laptop for Ms. Yellowhorse

Ms. Yellowhorse respectfully submits that cause exists for the entry of an Order compelling the McKinley County Detention Center in which she is housed to permit her to have access to a computer or tablet containing discovery and which can be updated by counsel as warranted by developments in his case. Undersigned counsel states that Ms. Yellowhorse's computer will be WiFi-disabled and otherwise have no access to the internet. Counsel is prepared to furnish such a device to the Court and to the detention facility for independent inspection, prior to its delivery to Ms. Yellowhorse

WHEREFORE, Ms. Yellowhorse, through undersigned counsel, respectfully requests that this Court issue an Order with the following terms:

1. McKinley County Detention Center shall allow Stacey Yellowhorse to possess and use a tablet or computer (hereinafter the "Computer") for purposes of discovery review and trial preparation while detained at McKinley County Detention Center for the pendency of this case;
2. The Computer must be password-protected. Defense counsel will have the responsibility of procuring and preparing the Computer. The Computer will not have access to the internet nor will it have Wi-Fi capability. Furthermore, any camera on the Computer will be disabled. The Computer will also be subject to any reasonable security demands of the United States Marshals Service or its designee. Prior to the

Computer being provided to Ms. Yellowhorse, it shall be provided to the Marshals Service for inspection to ensure that it meets the above criteria and all reasonable security demands.

3. Once the Computer is determined to meet the necessary security requirements, government discovery materials may be loaded onto it. The Computer may also be updated at regular intervals as additional government discovery materials are disclosed. The content of the Computer will be limited such that it will only allow Ms. Yellowhorse to view and review the discovery in this case, including audio/video files, pictures, and documents. Ms. Yellowhorse is only permitted to use the Computer to review such discovery; any other use of the Computer is prohibited. This does not preclude the defense team from loading investigative materials relevant to her case on the computer for purposes of her defense.
4. Ms. Yellowhorse's failure to comply with these conditions, and any of the other conditions imposed by this Order, may result in the revocation of her access to the Computer.

Respectfully submitted,

THE LAW OFFICE OF CAREY C. BHALLA LLC

/s/ Carey C. Bhalla

Carey C. Bhalla
1306 Rio Grande Blvd. NW Suite B
Albuquerque, NM 87104
(505) 508-5589
carey@bhallalaw.com

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2020, a copy of the foregoing document was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/Carey C. Bhalla

Carey C. Bhalla